

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 FRANK M. PECK,
5 Petitioner,
6 v.
7 BRIAN WILLIAMS, et al.,
8 Respondents.

Case No. 2:17-cv-01620-JAD-VCF

**Order Appointing Counsel, Granting
Leave to File Petition,
and Denying Remaining Motions
Without Prejudice**

[ECF Nos. 19, 20, 23, 25, 26, 27, 34]

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11 Frank M. Peck brings this Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 to
12 challenge his 2009 Nevada State Court conviction for sexual assault.¹ Peck has filed numerous
13 motions that are currently pending. After the court directed Peck to file an amended petition,² he
14 moved for leave to file an enlarged petition, attaching his first amended petition. I grant his
15 motion and direct the Clerk of Court to file Peck's First Amended Petition.³

16 Peck has also filed a motion asking for accommodations under the Americans with
17 Disabilities Act,⁴ in which he alleges that he writes in pain because of the condition of his hand.
18 He asks the court to order the prison to allow him to use a flash drive, a typewriter, or a word
19 processor to generate his legal documents. Instead, having reviewed the claims in the petition,
20 and having considered the possibility that petitioner might need to conduct discovery, I find that
21 the interests of justice are best served by appointing counsel to represent Peck in this writ
22 proceeding.⁵ So, I provisionally appoint the Federal Public Defender to represent Peck.

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24 ¹ ECF No. 1-1.

25 ² ECF No. 18.

26 ³ ECF No. 19-1.

27 ⁴ 42 U.S.C. § 12101, *et seq.*

28 ⁵ 18 U.S.C. § 3006A(a)(2)(B).

1 Because counsel will be in a better position to evaluate what additional relief is needed or
2 procedural steps should be taken at this time, I deny all of Peck's remaining motions without
3 prejudice to counsel's ability to seek the same relief should it be warranted. And because Peck
4 will be represented by counsel from this point forward, I instruct Mr. Peck that he may no longer
5 file documents on his own in a pro se capacity. Local Rule IA 11-6(a) requires that all future
6 filings on behalf of Peck must now be made by appointed counsel.

7 **IT IS THEREFORE ORDERED** that petitioner's motion for leave to file an enlarged
8 petition [ECF No. 19] is **GRANTED**; the Clerk of Court is directed to **FILE the First Amended**
9 **Petition [ECF No. 19-1]**.

10 IT IS FURTHER ORDERED that **the Federal Public Defender is provisionally**
11 **appointed** to represent the petitioner. The Federal Public Defender has until April 22, 2019, to
12 undertake direct representation of the petitioner or indicate to the court his inability to represent
13 petitioner in these proceedings. If the Federal Public Defender undertakes representation of
14 petitioner, he will then have 60 days to file an amended petition for a writ of habeas corpus, if
15 desired. If the Federal Public Defender is unable to represent the petitioner, then the court will
16 appoint alternate counsel. Neither these deadlines nor any extension of them signifies or will
17 signify any implied finding of a basis for tolling. Petitioner always remains responsible for
18 calculating the running of the federal limitation period under 28 U.S.C. § 2244(d)(1) and timely
19 asserting claims.

20 IT IS FURTHER ORDERED that the Clerk of Court is directed to **ADD Aaron Ford,**
21 **Attorney General for the State of Nevada, as counsel for respondents.**


22 IT IS FURTHER ORDERED that **respondents' counsel has until April 11, 2019, to**
23 **enter a notice of appearance**, but no further response will be required from respondents until
24 further order of the court.

25 IT IS FURTHER ORDERED that the Clerk of Court is directed to
26 **ELECTRONICALLY SERVE both the Attorney General of the State of Nevada and the**
27 **Federal Public Defender with a copy of the first amended petition [ECF No. 19-1] and a**
28 **copy of this order.**

1 IT IS FURTHER ORDERED that, notwithstanding Local Rule LR IC 2-2(g), no paper
2 copies of electronically filed exhibits should be provided to chambers or to the staff attorney
3 unless later directed by the Court.

4 IT IS FURTHER ORDERED that ALL OTHER MOTIONS [ECF Nos. 20, 23, 25, 26,
5 27, and 34] are **DENIED** without prejudice.

6 DATED: March 21, 2019

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JENNIFER A. DORSEY
United States District Judge
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